



Wichita Police Department Policy Manual

Approved by: _____

Policy 509 – Civil matters/Court Orders/Process Servers

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Planning and Research

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CIVIL MATTERS:

- 509.01 Police are often called to civil or domestic disturbances to settle non-criminal disputes over such things as property division, payments of money or requests by one resident that police eject another resident from the premises, although no court order has been issued. When no criminal violations have occurred, and/or no court orders have been violated, these disputes are civil matters over which police have no jurisdiction or authority.
- 509.02 If an officer determines that he/she is dealing with a civil problem, he/she shall advise the parties involved to seek legal counsel. Officers shall not recommend an attorney, but may refer such persons to the Lawyer Referral Service of the Kansas Bar Association, or to Legal Services of Wichita, if indigent.
- 509.03 Even if an officer takes no police action, such calls shall be documented in the CAD system, utilizing the correct N-Code as the disposition [see Regulation 5.814 (C)].

COURT ORDERS:

- 509.04 Officers shall enforce valid court orders, such as restraining orders or orders issued in divorces, legal separations, or under the Protection From Abuse Act.
- 509.05 Officers may also be called upon after orders for eviction including, Writs of Forcible Detainer, Writs of Assistance, or Writs of Restitution have been served. To be valid, a court document should have a caption showing the parties to the action [example: John Doe vs. Mary Doe], a case number [example: 92 C 1000], and must be signed, or stamped, by the appropriate authority [either the court clerk or a judge, depending upon the type of document]. The document should bear either the District Court Seal, or be time stamped in the upper corner showing the date and time the document was filed with the court. It is acceptable to serve a faxed copy or photocopy of a document bearing these stamps or seals.
- 509.06 Officers at a domestic dispute may be confronted with a variety of scenarios regarding court orders; most often, one of the participants will have an order requiring the other(s) to vacate premises previously shared. It is up to the officers to determine:
- A. Whether a valid court order has been issued;
 - B. Whether the defendant in the order has been personally served with it;
 - C. Whether one or more parties involved in the dispute has been ordered to vacate the premises.
- 509.07
R To determine whether a court order has been issued, the officer shall contact Sheriff's Records at 660-3888, or via SPIDER, if the plaintiff cannot produce a file stamped copy for the officer's inspection. If no court order exists, the officer may advise the parties involved that a Protection From Abuse order can be filed individually at the office of the Clerk of the District Court, Family Court Services, Room 134, Sedgwick County Courthouse, 660-5290, during regular business hours.
- 509.08
R To determine whether the defendant named in the order has been served:
- A. If the defendant is present at the scene, he/she may admit that he/she has been served;
 - B. Contact Sheriff's Records at 660-3888.
- 509.09
R If the plaintiff has two (2) copies of a court order with a Return Form [example: a Protection From Abuse Order], and the defendant is still at the scene, the officer shall offer personal service to the defendant in the following manner:
- A. Offer the second copy of the court order to the defendant [if he/she refuses to accept it, this still qualifies as valid personal service];
 - B. Complete the following required information on the Return Form:
 - 1. Defendant's name;
 - 2. The name of the document served [do not use abbreviations];
 - 3. Where the document was served;
 - 4. Time/date served; and
 - 5. Officer's name and I.D. number.

- C. Route the Return Form to SPIDER with his/her mail at the end-of-shift so that Sheriff Department Civil Section personnel can pick it up.
- D. Contact Sheriff Records via telephone (316)660-3888 or via SPIDER to make notification that the court order was served.

509.10 If personal service of the defendant has previously been effected:

- A. And the defendant is still on the scene, and there is probable cause to believe that he/she is in violation of the District Court Order, he/she shall be booked for Criminal Trespass thru Municipal Court ordinance 5.66.050 (c) on a Uniform Criminal Complaint [with supervisory approval].
- B. And the defendant has left the scene prior to the officer's arrival, the officer shall document the incident with an Incident Report and, if there is probable cause to believe that the defendant was in violation of the court order, make a pickup [subject to approval of a field supervisor]. If the situation involves domestic violence, refer to Policy 512-Domestic Violence].

509.11 If personal service of the defendant has not been previously effected (Domestic Order, or Protection From Abuse Order):

- A. And the defendant is still on the scene, and the plaintiff has the defendant's copy of the Court Order/Return Form available to be served, the officer shall serve the order and shall request the defendant's immediate compliance with the court order:
 - 1. If he/she complies, the defendant shall not be arrested; however, the officer shall document the incident with an Incident Report.
 - 2. If he/she refuses to comply [for example, refuses to immediately leave the property if so required by the court order], he/she shall be arrested and charged with both (1) a violation of City Ordinance 5.66.050(c), Criminal Trespass and (2) a violation of City Ordinance 5.69.010(a)(1), Protective Orders.
- B. And the defendant is still on the scene, but the plaintiff has no court order available to be personally-served upon him/her, however, a check with Sheriff Records indicates that a Protection From Abuse Order [PFA] is on file: The officer shall verbally inform the defendant of the existence of the PFA and request that he/she comply with its requirements;
- C. And the defendant has left the scene prior to the officer's arrival, the officer shall determine whether this is a domestic violence incident; if so, the officer shall be guided by Policy 512-Domestic Violence in determining whether a pickup should be issued;
- D. When an officer is presented with an out-of-state civil court order, he/she should inform the citizen that nothing can be done to assist them until a local district judge approves the order. The citizen should be informed that if they wish assistance from local law enforcement concerning this matter, they need to present the out-of-state order to the sergeant of the civil section of the Sedgwick County Sheriff's Department during normal business hours. The sergeant of the civil section, or his/her substitute, will take the out-of-state order to a Judge in the 18th Judicial District for approval. When specific written approval for assistance is obtained by the judge, the civil sergeant will assign deputies to assist the citizen according to the judge's instructions. [None of these procedures apply to out-of-state Protection from Abuse (PFA's) orders. All out-of-state PFA orders must be given full faith and credit and acted upon immediately under the Violence Against Women Act, 18 USC 2256].

PRIVATE PROCESS SERVERS:

509.12 Private Process Servers are Officers of the Court. Pursuant to K.S.A. 60-303(c)(3), private process servers have the authority to serve process and seize property under a valid order of the court. This authority granted from the Court is of the same level as a commissioned Sheriff's Deputy or Wichita Police Officer in regards to the particular writ being served. Wichita Police Officers will not be dispatched to process server calls unless the following circumstances exist:

- A. There is an active disturbance involving physical engagement;
- B. There is an active disturbance involving a weapon;
- C. With supervisory approval

509.13 Citizen complaints regarding the conduct of Private Process Servers should be referred to the District Court from which the order or writ was originated.

509.14 Process servers within the 18th Judicial District, State of Kansas must wear a green vest with the words "Authorized Process Server Within the 18th Judicial District State of Kansas" on the front and back of the vest, while serving a writ of execution within the 18th Judicial District. The words must be in black and easily read from at least 20 feet.